

REMARKS/ARGUMENTS

Claims 1-42 remain pending in the present application. However, Claims 1-11 have been withdrawn as being directed to a non-elected invention. Claims 12, 23 and 32 have been amended. Applicant respectfully requests entry of these amendments and favorable reconsideration of the claims in view of the following remarks.

I. REJECTIONS UNDER 35 U.S.C. § 112

Claims 12-42 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner indicated that: “the Applicant is entitled to claim the use of quality level of the wireless link to determine the coding scheme. The Applicant is however cannot claim quality level of the wireless link is the **only** one used to determine the coding scheme because the specification does not limit only the quality level of the wireless link is used. In other words, the phrase “**only** quality level of the wireless link is used” means that **nothing else besides** the quality level of the wireless link is used to determine the coding scheme. The specification, on the other hand, fails to restrict to this issue.”

In response, Applicant notes that although Applicant does describe different embodiments for determining the coding scheme, Applicant is not required to claim all of the embodiments described. Instead, Applicant respectfully submits that Applicant is allowed to restrict the claims to only one of the embodiments since there is nothing in the specification that would prevent such a restriction. In particular, Applicant’s specification does not indicate anywhere that all embodiments (or even plural embodiments) must be used, but rather indicates that one or more of them “may” be used.

Even though Applicant's specification does not specifically state that "only" the quality level of the wireless link is used to determine the coding scheme, there is no requirement of a one-to-one correspondence between claim language and language used in the specification. It can easily be inferred from the specification that one or more of the different embodiments can be used to determine the coding scheme.

For example, paragraph [0058] of Applicant's disclosure states: "In one example, processor 622 may examine the packetized communications exchanged between wireless terminal 10 and wireless interface 620 to determine the communication quality level delivered by the wireless link. When the wireless link is limiting, processor 622 may employ a coding scheme based on the communication quality level delivered by the wireless link. Additionally, by examining the jitter buffer 624, processor 622 determines the latency associated with these buffers and assigns an appropriate coding scheme based on that latency."

Claim 12 recites: "measuring the communication quality level of an uplink path from the WLAN terminal to the AP, the communication quality level being based on latency of the outgoing user communications at the AP; and revising the selected coding scheme from the plurality of supported coding schemes based upon only the communication quality level delivered between the AP and WLAN terminal."

Claim 12 is fully supported by paragraph [0058]. Though paragraph [0058] does not use the word "only," no other embodiments for selecting the coding scheme at the AP are described in this paragraph or any surrounding paragraphs as being required to be used.

Thus, since Applicant's specification clearly provides support for using the quality level of the wireless link to determine the coding scheme, and nothing in Applicant's specification requires other factors to be considered, Applicant respectfully submits that there is support to restrict the claims to use only the quality level.

Therefore, Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. § 112 rejections of Claims 12-42.

II. REJECTIONS UNDER 35 U.S.C. §103

Claims 12-16, 19-25, 28-36 and 39-42 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Abaye* (U.S. Patent No. 7,260,060), hereinafter "Abaye", in view of *Pepin et al.* (U.S. Patent Application Publication No. 2004/0160979), hereinafter "Pepin" and further in view of *Braun* (U.S. Patent Application Publication No. 2004/0203451), hereinafter "Braun." In addition, Claims 17, 18, 26, 27, 37 and 38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Abaye, Pepin and Braun and further in view of *Wheeler* (U.S. Patent No. 7,242,932), hereinafter "Wheeler." Applicant respectfully submits that these rejections are overcome.

Applicant has amended independent Claims 12, 23 and 32 to now similarly recite "*measuring the communication quality level of an uplink path from the WLAN terminal to the AP, the communication quality level being based on latency of the outgoing user communications at the AP; and revising the selected coding scheme from the plurality of supported coding schemes based upon only the communication quality level delivered between the AP and WLAN terminal.*" Applicant respectfully submits that this feature is not taught or suggested by the combination of Abaye, Pepin and Braun.

In the Office Action, the Examiner indicated that since Applicant claimed measuring the communication quality level “for” the uplink path, this could be interpreted as measuring the communication quality level “of either the uplink or downlink path” for the uplink path. To clarify the claims, Applicant has now amended Claims 12, 23 and 32 to recite measuring the communication quality level “of” of the uplink path. And, as the Examiner admits, neither Abaye, Pepin nor Braun teach or suggest that the coding scheme would be selected based on only the communication quality level delivered on the uplink from the WLAN terminal to the AP.

Thus, the combination of Abaye, Pepin and Braun does not teach each and every element of, in the detail of, the claims of the present invention. Therefore, Applicant respectfully submits that independent Claims 12, 23 and 32 (and all claims dependent therefrom) are in condition for allowance. Accordingly, Applicant respectfully requests that the Examiner withdraw the § 103 rejection of Claims 12-42.

CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Garlick Harrison & Markison Deposit Account No. 50-2126 (Ref. BP2970).

Respectfully submitted,

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